

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., et al.,

Plaintiffs,

v.

DACAI LIU, et al.,

Defendants.

Case No. C23-1375-RSL-SKV

ORDER GRANTING PLAINTIFFS'
EX PARTE MOTION FOR
ALTERNATIVE SERVICE

INTRODUCTION

Plaintiffs Amazon.com, Inc. and Amazon.com Services (collectively “Amazon”) filed an *Ex Parte* Motion for Alternative Service. Dkt. 22. They seek an order authorizing completion of service of process by email on Defendants Dacai Liu, Ling Wu, Hailong Zhou, and Chen Qiufeng. The Court, having considered the motion, all documents filed in support, and the balance of the record, herein GRANTS Plaintiffs’ motion for the reasons set forth below.

BACKGROUND

This matter involves allegations of false designation of origin and false advertising under the Lanham Act, violations of the Washington Consumer Protection Act, and breach of contract associated with the sale of counterfeit products in the Amazon.com store (Amazon Store). *See*

1 Dkts. 1 & 19. Plaintiffs allege Defendants sold counterfeit luxury products through four
2 different Amazon “Selling Accounts.” *Id.*

3 Plaintiffs conducted investigations into the Selling Accounts through which Defendants
4 sought to advertise, market, sell, and distribute products, including researching the contact
5 information Defendants provided to Plaintiffs when they registered the Selling Accounts. Dkt.
6 23, ¶5 & Dkt. 24, ¶2. Through these investigations, Plaintiffs determined that Defendants
7 registered their Selling Accounts with identifying and business information that was fraudulently
8 submitted and unrelated to the individuals and entities operating the Selling Accounts, and/or not
9 the true addresses of Defendants. Dkt. 24, ¶2. Defendants also obtained account and
10 transactions information relating to bank accounts Defendants provided to Amazon in connection
11 with their Selling Accounts, including potential physical addresses for Defendants, but
12 investigations into this information failed to reveal any valid physical addresses. *Id.*, ¶¶3-11.
13 However, the addresses and other information obtained through discovery provide support for
14 the conclusion that Liu, Wu, Zhou, and Qiufeng are likely located in China. *See id.*, ¶¶2, 12.

15 Plaintiffs now seek an order from the Court granting leave to serve Liu, Wu, Zhou, and
16 Qiufeng via email through the email addresses registered with the Selling Accounts, including
17 the following accounts and associated addresses: (1) CNDY-Store (tuxibhsh21@163.com); (2)
18 CVAAA& (miejingfeimulu@163.com); (3) Longzius (maizikekeke@sohu.com); and (4) Pikesi
19 (wll5585379483@163.com). Dkt. 23, ¶4. They note that the email addresses were used not only
20 to register the Selling Accounts, but also to receive communications from Amazon and to log
21 into the accounts, and were the primary means of communications from Amazon to Defendants.
22 *Id.*, ¶5. Plaintiffs also observe that, on June 5, 2024, they emailed Defendants at the registered
23 Selling Account email addresses, apprising Defendants of the pending action and providing

1 copies of the First Amended Complaint, civil cover sheet, and summonses. Dkt. 24, ¶13. They
 2 did not receive error notices, bounce-back messages, or any other indication that the emails had
 3 not been delivered to the following email addresses registered to the following Defendants: (1)
 4 Qiufeng’s registered email address miejingfeimulu@163.com; (2) Liu’s registered email address
 5 maizikekeke@sohu.com; (3) Wu’s registered email address wl15585379483@163.com; and (4)
 6 Zhou’s registered email address tuxibhsh21@163.com. *Id.* Plaintiffs seek to serve Defendants
 7 using RPost (www.rpost.com), an online service for service of process. *Id.*, ¶14.

8 DISCUSSION

9 Federal Rule of Civil Procedure 4(f) permits service of process on individuals in foreign
 10 countries by: (1) internationally agreed means of service reasonably calculated to give notice,
 11 such as those authorized by the Hague Convention on the Service Abroad of Judicial and
 12 Extrajudicial Documents; (2) if there is no internationally agreed means, in accordance with the
 13 foreign country’s law; or (3) “by other means not prohibited by international agreement, as the
 14 court orders.” Fed. R. Civ. P. 4(f)(3). To obtain a court order under Rule 4(f)(3), a plaintiff must
 15 “demonstrate that the facts and circumstances of the present case necessitate[] the district court’s
 16 intervention.” *Rio Props., Inc. v. Rio Int’l Interlink*, 284 F.3d 1007, 1016 (9th Cir. 2002).

17 In addition to the requirements of Rule 4(f), “a method of service of process must also
 18 comport with constitutional notions of due process.” *Id.* “To meet this requirement, the method
 19 of service crafted by the district court must be ‘reasonably calculated, under all the
 20 circumstances, to apprise interested parties of the pendency of the action and afford them an
 21 opportunity to present their objections.’” *Id.* at 1016-17 (quoting *Mullane v. Cent. Hanover*
 22 *Bank & Trust Co.*, 339 U.S. 306, 314 (1950)).

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1 A. Rule 4(f)

2 Plaintiffs assert their inability to locate a physical address for Defendants Liu, Wu, Zhou,
3 and Qiufeng. Dkt. 24, ¶¶2-11. Plaintiffs' investigation and discovery efforts narrowed the likely
4 location of each individual to China. *Id.*, ¶12. China has been a party to the Hague Convention
5 since 1992. *See* Contracting Parties to Hague Convention, [https://www.hcch.net/en/instruments/](https://www.hcch.net/en/instruments/conventions/status-table/?cid=17)
6 [conventions/status-table/?cid=17](https://www.hcch.net/en/instruments/conventions/status-table/?cid=17) (last visited June 12, 2024). The Hague Convention expressly
7 "shall not apply where the address of the person to be served with the document is not known."
8 Hague Convention, T.I.A.S. No. 6638 (Feb. 10, 1969), 20 U.S.T. 361, 1969 WL 97765. Here,
9 because they have been unable to locate a physical address for Liu, Wu, Zhou, and Qiufeng,
10 Plaintiffs could not utilize methods authorized by the Hague Convention. Moreover, because the
11 Convention does not apply, it does not bar service by email.

12 Whether or not the Hague Convention applies, this Court and other courts have
13 concluded that email service on individuals located in China is not prohibited by the Hague
14 Convention or by any other international agreement. *See, e.g., Rubie's Costume Co., Inc. v. Yew*
15 *Hua Hao Toys Co.*, C18-1530-RAJ, 2019 WL 6310564, at *3 (W.D. Wash. Nov. 25, 2019)
16 (email service in China "not expressly prohibited by international agreement"). *See also*
17 *Amazon.com, Inc. v. Dafang HaoJiafu Hotpot Store*, No. C21-0766-RSM, 2021 WL 4307067, at
18 *1-2 (W.D. Wash. Sept. 22, 2021) (stating "courts in this district regularly authorize requests for
19 service by email on foreign defendants in countries that are parties to the Convention" and
20 granting motion for alternative service in China and Hong Kong).

21 Plaintiffs here demonstrate the need for the Court's intervention. The Court further finds
22 that service by email is not prohibited by international agreement. Plaintiffs therefore show that
23 an Order permitting service by email comports with Rule 4(f).

1 B. Due Process

2 The Court must also determine whether service of process on Liu, Wu, Zhou, and
3 Qiufeng through email would comport with due process. That is, the Court must consider
4 whether this method of service is “reasonably calculated, under all the circumstances,” to apprise
5 Liu, Wu, Zhou, and Qiufeng of this action and afford them the opportunity to object. *Mullane*,
6 339 U.S. at 314.

7 Plaintiffs show that Liu, Wu, Zhou, and Qiufeng are responsible for bank accounts
8 associated with the Selling Accounts at issue and that the above-described email addresses were
9 used to conduct business on Amazon, serve as the primary means of communication between
10 Amazon and Defendants, and that the addresses remain active, as demonstrated by test emails
11 sent successfully and with no indication of a failure to deliver. *See* Dkts. 23 & 24. Plaintiffs
12 argue that this showing supports the conclusion that service on Liu, Wu, Zhou, and Qiufeng by
13 email is reasonably calculated to provide actual notice.

14 As found by the Ninth Circuit, the decision to allow service by email lies within the
15 district court’s discretion where the defendant has “structured its business such that it could be
16 contacted *only* via its email address” and “designated its email address as its preferred contact
17 information.” *Rio Props., Inc.*, 284 F.3d at 1018 (emphasis in original). The situation here is
18 somewhat less clear because Amazon suspended the Selling Accounts at issue. *See* Dkt. 19,
19 ¶¶44-47. As a result, Liu, Wu, Zhou, and Qiufeng no longer conduct business with Amazon
20 through the accounts. Plaintiffs have, however, verified that the email addresses used to register
21 and otherwise associated with the Selling Accounts remain active.

22 This Court has concluded that the due process requirement for alternative service by
23 email is satisfied “when the plaintiff demonstrates that the email addresses at issue are valid and

1 are successfully receiving messages.” *Amazon.com Inc. v. KexleWaterFilters*, C22-1120-JLR,
2 2023 WL 2017002, at *4 (W.D. Wash. Feb. 15, 2023). The Court has, accordingly, authorized
3 service by email where plaintiffs identified email addresses defendants used for Amazon Selling
4 Accounts and verified the addresses remained active, finding sufficient indicia that the
5 defendants were likely to receive notice if served by email and due process concerns satisfied.
6 *See, e.g., Amazon.com, Inc. v. Pengyu Bldg. Materials*, No. C21-0358-JNW-SKV, 2023 WL
7 4131609, at *3-4 (W.D. Wash. June 22, 2023); *KexleWaterFilters*, 2023 WL 3902694, at *2
8 (W.D. Wash. May 31, 2023); *Amazon.com Inc. v. Bamb Awns*, No. C22-402-MLP, 2023 WL
9 2837076, at *3 (W.D. Wash. Apr. 7, 2023). *Accord Bright Sols. for Dyslexia, Inc. v. Lee*, C15-
10 1618, 2017 WL 10398818, at *7 (N.D. Cal. Dec. 20, 2017) (finding service by email proper
11 “because Defendants structured their counterfeit business such that they could only be contacted
12 by email[,]” the court authorized service by email, and the emails sent did not bounce back as
13 undeliverable), *report and recommendation adopted*, 2018 WL 4927702 (N.D. Cal. Mar. 26,
14 2018). In contrast, where plaintiffs did not indicate whether they had attempted to contact any
15 defendants using email addresses associated with Amazon Selling Accounts, nor represented the
16 defendants had notice of the lawsuit, the Court denied service by email upon finding a failure to
17 demonstrate the email addresses were still valid. *KexleWaterFilters*, 2023 WL 2017002, at *2, 4
18 (permitting plaintiffs to “renew their motion with evidence of recent communications to
19 Defendants that demonstrates that service by email is a reliable method to provide Defendants
20 with notice of the pendency of [the] action.”), *renewed motion granted, KexleWaterFilters*, 2023
21 WL 3902694, at *2. *See also Amazon.com, Inc. v. Tian Ruiping*, No. C21-0159-TL, 2022 WL
22 486267, at *3-5 (W.D. Wash. Feb. 17, 2022) (denying alternative service by email where
23 plaintiffs had obtained physical addresses for defendants, but did not demonstrate the addresses

were incorrect or inadequate for service, did not show any defendant was aware of the pending action, and did not indicate any attempts to contact defendants, including attempted communication via email, through Selling Accounts, or by any other means).

Plaintiffs here demonstrate that all physical addresses obtained in relation to Liu, Wu, Zhou, and Qiufeng were incorrect or otherwise inadequate for service. They also demonstrate that email addresses used by Liu, Wu, Zhou, and Qiufeng to register Amazon Selling Accounts, serving as the primary means of communication with Amazon, and used to conduct business in the Amazon Store remain active. Together, these circumstances provide sufficient indicia that Liu, Wu, Zhou, and Qiufeng are likely to receive notice if served by email. The Court therefore finds service through email is reasonably calculated to apprise Liu, Wu, Zhou, and Qiufeng of this action and provide an opportunity to respond, and thus satisfies concerns of due process.

CONCLUSION

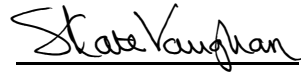
The Court, in sum, GRANTS Plaintiffs' *Ex Parte* Motion for Alternative Service. Dkt. 22. Specifically, the Court authorizes Plaintiffs to serve Defendants as follows:

1. Defendant Qiufeng through the following email address registered with Amazon in connection with the CVAAA& Selling Account: miejingfeimulu@163.com.
2. Defendant Liu through the following email address registered with Amazon in connection with the Longzius Selling Account: maizikekeke@sohu.com.
3. Defendant Wu through the following email address registered with Amazon in connection with the Pikesi Selling Account: wl15585379483@163.com.
4. Defendant Zhou through the following email address registered with Amazon in connection with the CNDY-Store Selling Account: tuxibhsh21@163.com.

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1 Plaintiffs are ORDERED to complete service and file proof of service by **June 27, 2024**.

2 Dated this 12th day of June, 2024.

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4 S. KATE VAUGHAN
5 United States Magistrate Judge
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